

# **WEBINAR WEDNESDAYS**



**Wednesday, December 9, 2020**

## **AZ Adult Protective Services Overview: Working Together to Protect the Vulnerable Adult**

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Distributed by:

**ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL**

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## Arizona Adult Protective Services Overview:

### Multidisciplinary Teams Protecting the Vulnerable Adult



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## Agenda

- I. Overview of the Arizona Adult Protective Services Act.
- II. Vulnerability and definitions.
- III. Adult Protective Services (APS).
- IV. Collaboration and partnership.
- V. Resources.

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## Arizona Adult Protective Services Act

- Title XX of the Social Security Act was enacted in 1975.
- It required states to protect children, elder adults, and adults with disabilities from abuse, neglect and exploitation.
- Gave permission for states to use Social Services Block Grant (SSBG) funds for the protection of adults as well as children.
- Congress held hearings and encouraged states to address the problem.



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## A.R.S. § 14 and 46



- **Title 14 - Trusts, Estates and Protective Proceedings:**
- Wills, estates, guardianship, and power of attorneys
- Allows APS to obtain special visitation warrants
- **Title 46 - Welfare, Chapter 4 - Adult Protective Services**
- Provides APS definitions
- Allows APS to access client medical and financial records

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## Vulnerability

**Vulnerable Adult:** an individual who is eighteen years of age or older and who is unable to protect him or herself from abuse, neglect or exploitation by others because of a physical or mental impairment.



(A.R.S. § 46-451)

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## Vulnerability



**"Incapacitated person"** means any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.

(A.R.S. § 14-5101)

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### Vulnerability

Certain adults are considered Categorical Vulnerable Adults

- Have an appointed a Guardian or Conservator
- Are members of the Division of Developmental Disabilities (DDD) Program
- Are qualified for Arizona Long Term Care Services (ALTCS)
- Have a Serious Mental Illness (SMI) Designation



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### Vulnerability vs Capacity

- Adults with decision-making capacity have the right to make poor decisions
- Davis v. Zlatos
- Decision-making capacity will be evaluated
- Determine if client understands the risks



See, Davis v. Zlatos, 211 Ariz. 519, 524, ¶ 20, 123 P.3d 1156, 1161 (App.2005).

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### Protecting vulnerable adults

It takes a team.



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## Abuse

Abuse means intentional infliction of physical harm; injury caused by negligent acts or omission; unreasonable confinement; sexual abuse or sexual assault



(A.R.S. § 46-451)

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## Abuse "Red Flags"



- Bilateral bruising on upper arms, or bruising on abdomen, back, neck, buttocks, face. Black eyes, welts, lacerations, or rope marks.
- Open wounds, cuts, punctures, untreated injuries in various stages of healing.
- Broken bones, skull fractures, dislocated limbs from being forcefully grabbed or pulled.
- Changes in a vulnerable adult's demeanor, such as showing fear or becoming withdrawn when a specific person is around.
- Evidence of pornographic material being shown to a vulnerable adult with diminished capacity.
- Blood found on sheets, linens or clothing.

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## Neglect

Neglect is defined as the deprivation of food, water, medication, medical services, shelter, supervision, cooling, heating or other services necessary to maintain a vulnerable adult's minimum physical or mental health.



(A.R.S. § 46-451)

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### Neglect "Red Flags"

- Adult has been left on the floor or on a toilet for extended amount of time. Look for signs of blood pooling, bed sores, skin breakdown/tears, urine/excrement-soaked clothing.
- Condition of home: pest/rodent infestation, excessive filth, animal/human feces, non-working appliances, structure in disrepair, lack of running water, protection against cold/heat.
- Dehydration, malnutrition, No food in the home, no ability to get food.
- Condition of the adult: malodorous, dirty clothes, dirty hair and nails, expresses or appears to be in pain.
- Unattended or untreated health problems
- The desertion of an older adult at a hospital, a nursing facility, or other similar institution, or a shopping center or other public location



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### Self-neglect

Self-neglect is an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks.



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### Self-neglect "Red Flags"

- Isolation and declining physical ability.
- Hoarding. Including pet hoarding.
- Failure to seek medical treatment or take needed medications.
- Poor hygiene.
- Clutter; lack of housecleaning.
- Wandering and confusion.
- Leaving the stove or water faucet unattended.



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Exploitation

The illegal or improper use of a vulnerable adult or the vulnerable adult's resources for another's profit or advantage.



(A.R.S. § 46-451)

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Exploitation "Red Flags"

- Uses of the vulnerable adult's identity to get a loan, credit card, conduct financial transactions.
- Posting photos/videos of vulnerable adult on the internet or transmitting the images to another electronic device.
- Coercing a vulnerable adult to steal from a store or sell their medication and give money to an alleged perpetrator.
- Abrupt changes in a will or other financial documents.
- Unexplained disappearance of funds or valuable possessions.
- Provision of substandard care or bills left unpaid despite the availability of adequate financial resources



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Emotional Abuse

- APS does not have authority under Arizona statute to investigate allegations of emotional abuse.
- Emotional is included in the criminal code and law enforcement would investigate
- Emotional abuse is cross-reported to law enforcement if reported to APS.



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Abuse, Neglect, or Exploitation?

A 19-year-old male participant of a Day Treatment for Adults, a program funded by the Division of Developmental Disabilities, fondles a 40-year-old female participant's breast (over her clothing).

Abuse

Neglect

Exploitation

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Abuse, Neglect, or Exploitation?

A woman who resides in an Assisted Living Facility calls law enforcement because the facility has been turning off her electric wheelchair so that she cannot leave her room. The woman stated that the staff have also prohibited her from using the telephone to call her daughter.

Abuse

Neglect

Exploitation

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Abuse, Neglect, or Exploitation?

A 30-year-old man is designated Serious Mental Illness (SMI) and receives services at a behavioral health agency. The behavioral health agency receptionist laughs every time the man starts talking to the empty chair next to him. The receptionist takes a video of man talking to the empty chair and posts the video on her Instagram account.

Abuse

Neglect

Exploitation

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## Alleged Perpetrators



- Primary motivator is greed.
- Perpetrators of vulnerable adults may not fit stereotype (i.e. drug addict).
- May be educated, intelligent, employed and seemingly well socially-integrated individuals.
- They want their inheritance now.
- [Arizona APS](#)

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## Adult Protective Services (APS)

- When to contact
- Whom/how to contact
- Services provided
- Referrals
- What APS does NOT do
- The role of the Attorney General
- When APS is called to testify



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## When to contact APS

- A.R.S. § 46-454(A) mandates that individuals such as physicians, physician assistants, registered nurse practitioners, licensed practical or registered nurses, peace officers or other person who has responsibility for the care of a vulnerable adult to report suspected maltreatment to law enforcement or to APS.
- A.R.S. § 46-454(C) mandates that that individuals such as attorneys, accountants, trustees, guardians, conservators or other person who has responsibility for preparing the tax records of a vulnerable adult.
- A.R.S. § 46-454(G) requires law enforcement to notify APS as soon as possible and to make information available to APS when any reports of alleged abuse, neglect or exploitation of vulnerable adults by mandated or non-mandated reporters are made to law enforcement.



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### When to contact APS

- As prosecuting attorneys, you likely have a lot of cases involving vulnerable adults. If your case involves vulnerable adult maltreatment but it does not reference APS, you can call the APS Central Intake Unit and make a report.
- If your case involves vulnerable adult maltreatment and the case does reference APS, we may be able to collaborate and provide you with evidence or have the investigator serve as a witness.
- For more information, reach out to your local law enforcement agency. If you have any additional concerns or questions, you can contact [ContactDAAS@azdes.gov](mailto:ContactDAAS@azdes.gov).



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### Adult Protective Services (APS)

**Phone:**

Monday - Friday:  
7:00 a.m. - 7:00 p.m.

Saturday, Sunday & state holidays:  
10:00 a.m. - 6:00 p.m.

1-877-SOS-ADULT  
(1-877-767-2385)



Online Reports can be  
completed 24/7

[www.azdes.gov/reportadultabuse](http://www.azdes.gov/reportadultabuse)

APS Investigator will make contact with the client  
within 1 to 5 business days.

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### Information APS collects for initial reports



- Name of reporting source.
- Name of Law Enforcement Agency involved.
- Contact information.
- Best time of day to contact reporting source.
- Report number or dispatch (run) number.
- Adult demographic information, living situation, and mental/physical condition.
- Concerns the prosecutor has.
- Information on alleged perpetrator.
- Safety concerns for APS Investigators.

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### Adult Protective Services (APS)



- The boundaries of APS jurisdiction exclude tribal lands, unless there is written invitation by the tribal council called a Memorandum of Understanding (MOU).
- Fort Mojave Indian Tribal Reservation, Salt River Pima-Maricopa Indian Community and Colorado River Indian Tribes.
- Within these tribes, in cases where non-Native Americans are involved, the Investigator coordinates with tribal social services to conduct the investigation. In cases where Native Americans are involved, the Investigator cross-reports to tribal social services and, or tribal law enforcement.

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### Adult Protective Services (APS)

- Receives reports of abuse, neglect, and exploitation of vulnerable adults.
- Evaluates the need for protective services and offers appropriate services based on need, availability and acceptance.
- Refers to the Public Fiduciary for guardianship and conservatorship in each county when appropriate.
- Requests medical and financial records when appropriate.



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### Partner and Support Agency

- Financial assistance.
- Food and nutrition assistance.
- Housing and shelter.
- Crisis support.
- Disability support.
- Assistance with completing applications.
- Cross-report to other agencies.



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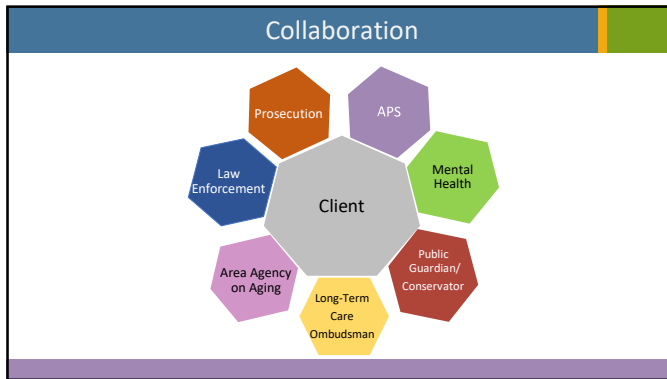
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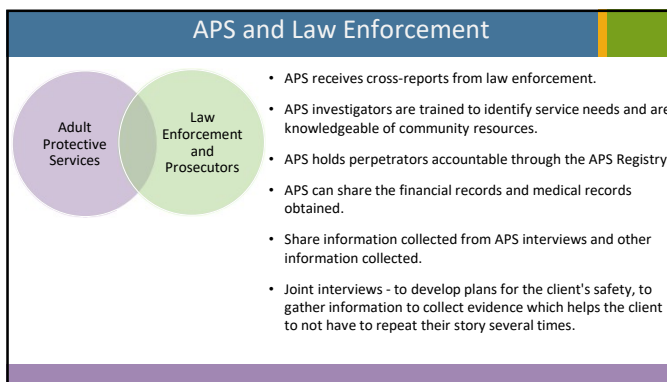
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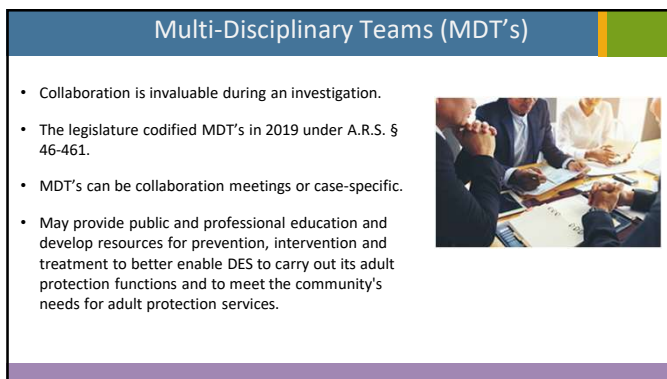
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### Working Together

A 76-year-old man, John Smith, has a caregiver through the VA because of his service-connected disability. Mr. Smith relies on his caregiver to prepare his food, administer his medications, change the dressing on his wound and do his grocery shopping. Mr. Smith gives the caregiver his debit card to buy his food but she returns stating that the card was declined. The man calls the bank and the bank tells him that Mr. Smith's son has transferred the money out of his account. The son, John Smith, Jr., who has the same name as the client and has been estranged from the client for several years set up online banking on the client's account and transferred \$50,000 out of the account. The client did not give his son permission to do that.



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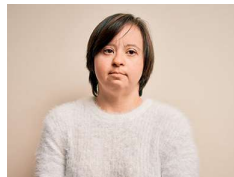
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### Working Together

A developmentally delayed 21-year-old is living in a group home. The staff take the members out to the park or shopping to the nearby mall once a week. During one of the outings, a staff member at the group home becomes frustrated with the client's behavior. A community member called the APS Central Intake Unit to report that the staff member hit the client causing the client to fall and hit her head on the pavement.



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### Working Together

An 80-year-old woman living in an assisted living home is dependent on a caregiver for all of her activities of daily living. A female caregiver walked in and witnessed a male caregiver at a facility fondling the client's breast while preparing to change her adult diaper. This was reported to Adult Protective Services. APS cross-reports to law enforcement. It was discovered that the male caregiver was accused of a similar incident at another assisted living facility.



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### What APS does NOT do

- Remove an adult from their living environment against their will.
- Require an adult to accept services.
- Make financial decisions.
- Serve as a guardian.
- Interfere in a capacitated adult's chosen lifestyle.



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### Role of the Attorney General

- The criminal division of the Attorney General's Office prosecutes certain criminal cases under its statutory jurisdiction.
- Includes the Office of Victim Services (OVS), which provides a myriad of services to victims.
- Represents APS at administrative hearings to determine whether a proposed finding of abuse, neglect or exploitation should be substantiated.
- Attorney General's Office coordinates the Taskforce Against Senior Abuse (TASA).



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### When APS is called to testify

- APS Investigators may be required to testify in guardianship hearings, criminal trials or civil proceedings between private citizens.
- APS Investigators are also required to testify at administrative hearings conducted by the Office of Administrative Hearings when a proposal to substantiate a finding of abuse, neglect or exploitation for placement on the APS Registry is appealed by an alleged perpetrator.



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Thank you!

  
DEPARTMENT OF ECONOMIC SECURITY  
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[www.azdes.gov/reportadultabuse](http://www.azdes.gov/reportadultabuse)

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